

COURTROOM MINUTES OF CRIMINAL PROCEEDINGS
Norfolk/Newport News Division

SENTENCING MINUTES

Set: 10:00 a.m.

Started: 10:00 a.m. 2:15

Ended: 12:15 p.m. 3:09

1:25 p.m.

2:19 p.m.

Date: March 13, 2013

Judge: Mark S. Davis

Court Reporter: Paul McManus

U.S. Attorney: Amy Cross

Defense Counsel: Benjamin Hamlet

Courtroom Deputy: Valerie A. Ward

Probation Officer: Karen Franklin

Interpreter:

Case No. 2:12cr127-1

Defendant: David Lee Jones, III

(✓) in custody () on bond

☒ Came on for disposition.

☒ Deft. sworn.

☒ Govt/Deft's ☒ motion for downward departure.

☒ motion for one-level reduction in offense level.

☒ Granted. ☐ Denied.

☒ The Court adopts the factual statements contained in the Presentence Report

☒ Presentence Report reviewed.

☒ Objections heard and rulings made.

☒ Evidence presented. (Witnesses and exhibits listed on last page)

☒ Arguments of counsel heard.

☒ Statement of deft. heard.

IMPRISONMENT:

SENTENCE: Counts 1: The deft. shall be committed to the custody of the BOP to be imprisoned for a total term of 175 months. The term consists of months on count , a term of months on count , a term of months on count , and a term of months on count , to be served concurrently/consecutively.

☒ The deft. is remanded to the custody of the U.S. Marshal.

 The deft. shall surrender for service of the sentence at the institution designated by the BOP/U.S. Marshal before on , as notified by the U.S. Marshal.

 If deft. is unable to arrange transportation to the designated institution, the United States Marshal will arrange transportation for the defendant.

 If the defendant is not notified by the United States Marshal of the institution designated, the defendant shall report to the United States Marshal at 600 Granby Street, Norfolk, VA, by on , to begin service of the sentence.

PROBATION:

 The deft. shall be placed on probation for a term of years.

SUPERVISED RELEASE:

✓ Upon release from imprisonment, the deft. shall be on supervised release for a term of 3 year(s). This term consists of ____ years on count ____, a term of ____ years on count ____, and a term of ____ on count ____, all to run concurrently.

Standard Conditions of Supervised/Probation:

The defendant shall report in person to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

While on supervised release, the defendant shall not commit another federal, state, or local crime.

While on supervised release, the defendant shall not illegally possess a controlled substance.

While on supervised release, the defendant shall not possess a firearm, destructive device, or any other dangerous weapon.

✓ The deft. shall refrain from any unlawful use of a controlled substance and submit to one drug test within 15 days of release on supervised release and at least two periodic drug tests thereafter, as directed by the probation officer.

____ As reflected in the presentence report, the deft. presents a low risk of future substance abuse and therefore, the court hereby suspends the mandatory condition for substance abuse testing as defined by 18 USC 3563 (a)(5). However, this does not preclude the U.S. Probation Office from administering drug tests as they deem appropriate.

____ It shall be a condition of supervised release that the deft. pay any such fine or restitution that remains unpaid at the commencement of the term of supervised release in accordance with the Schedule of Payments set forth in the Criminal Monetary Penalties sheet of this judgment.

Special Conditions of Supervised Release/Probation:

✓ The deft. shall participate in a program approved by the United States Probation Office for substance abuse, which program may include residential treatment and testing to determine whether the deft. has reverted to the use of drugs or alcohol, with partial costs to be paid by the deft., all as directed by the probation officer.

✓ The deft. shall waive all rights of confidentiality regarding mental health treatment and all prescribing doctors in order to allow the release of information to the United States Probation Office and authorize communication between the probation officer and the treatment provider.

✓ The deft. shall participate in a program approved by the United States Probation Office for mental health treatment to include anger management. The defendant shall take all prescribed medications. The cost of this program is to be paid by the defendant as directed by the probation officer.

✓ The deft. shall pay support for his child/~~children~~ in the amount ordered by any Division of Child Support Enforcement or court of competent jurisdiction. In the absence of such order, payments are to be made on a schedule to be determined by the court at the inception of supervision, based on the defendant's financial circumstances.

As directed by the probation officer, the deft. shall apply monies received from income tax refunds, lottery winnings, inheritances, judgments, and any anticipated or unexpected financial gains to the outstanding court-ordered financial obligation, or in a lesser amount to be determined by the court, upon the recommendation of the probation officer.

The deft. shall not incur new credit charges or open additional lines of credit without the approval of the probation officer.

The deft. shall provide the probation officer access to any requested financial information.

✓ The deft. shall notify all prescribing doctors of his substance abuse history.

The deft. shall participate in a program approved by the U.S. Probation Office for financial counseling. The cost of this program is to be paid by the defendant as directed by the probation officer.

✓ The defendant shall obtain a GED or a vocation skill during his period of supervision if not employed full-time.

The deft. shall be on Home Detention, which shall include electronic monitoring at the deft's expense, for a period of _____ consecutive months/days. During this time, he/she shall remain at his/her place of residence except for employment and other activities approved in advance by the probation officer.

Deft shall maintain a telephone at his place of residence without party lines, telephone answering machines, a modem, "call forwarding," "caller ID," "call waiting", portable cordless telephones or any other devices or services that may interfere with the proper functioning of the electronic monitoring equipment for the above period. Deft shall wear an electronic monitoring device, follow electronic monitoring procedures, and pay the cost of electronic monitoring, all as directed by the probation officer.

The defendant shall participate in a program approved by the United States Probation Office for mental health treatment, to include a psychological evaluation, and sex offender treatment. The costs of these programs are to be paid by the defendant as directed by the probation officer. The defendant shall waive all rights of confidentiality regarding sex offender/mental health treatment in order to allow the release of information to the United States Probation Office and authorize communication between the probation officer and the treatment provider.

Pursuant to the Adam Walsh Child Protection and Safety Act of 2006, the defendant shall register with the state sex offender registration agency in any state where the defendant resides, works, and attends school, according to federal and state law and as directed by the probation officer.

The defendant shall submit to polygraph testing as directed by the United States Probation Officer as part of his sex offender therapeutic program. The costs of the testing are to be paid by the defendant as directed by the probation officer.

Pursuant to the Adam Walsh Child Protection and Safety Act of 2006, the defendant shall submit to a search of his person, property, house, residence, vehicle, papers, computer, other electronic communication or data storage devices or media, and effects at any time, with or without a warrant, by any law enforcement or probation officer

FINANCIAL PENALTIES

✓ Court finds deft. is unable to pay fine, cost of prosecution, cost of imprisonment or supervised release.

SPECIAL ASSESSMENT:

✓ As to count 1, the deft. shall pay a special assessment in the amount of \$100.

As to count _____, the deft. shall pay a special assessment in the amount of _____.

As to count _____, the deft. shall pay a special assessment in the amount of _____.

As to count _____, the deft. shall pay a special assessment in the amount of _____.

The total special assessment due is \$100 and shall be due in full immediately.

FINE:

_____ The deft. shall pay a fine in the amount of \$ _____.

RESTITUTION:

_____ The deft. shall make restitution in the amount of \$ _____.

_____ Restitution Judgment Order, entered and filed in open court.

SCHEDULE OF PAYMENTS:

_____ Interest will not accrue if the special assessment/fine/restitution is paid in accordance with the schedule, or any modified schedule, set by this court.

✓ The special assessment/~~fine/restitution~~ is due and payable immediately. Any balance remaining unpaid on the special assessment/~~fine/restitution~~ at the inception of supervision, shall be paid by the deft. in installments of not less than \$ 50 per month, until paid in full. Said payments shall commence 60 days after deft's supervision begins.

_____ At the time supervision commences, the probation officer shall take into consideration the defendant's economic status as it pertains to his ability to pay the special assessment/fine/restitution ordered and shall notify the court of any change that may need to be made to the payment schedule.

_____ Each restitution payment shall be divided proportionately among the payees named.

_____ Restitution shall be made jointly and severally with _____

Nothing in the Court's order shall prohibit the collection of any judgment by the United States.

Any special assessment, restitution, or fine payments may be subject to penalties for default and delinquency.

Since this judgment imposes a period of imprisonment, payment of Criminal Monetary penalties shall be due during the period of imprisonment. All criminal monetary penalty payments are to be made to the Clerk, United States District Court, except those payments made through the Bureau of Prisons' Inmate Financial Responsibility Program.

The deft. shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all ~~finer, restitution,~~ costs, and special assessments imposed by this judgment are fully paid.

The deft. notified of right of appeal.

Court noted that deft. waived right of appeal in plea agreement.

On motion of gov't, remaining counts dismissed.

The deft. is continued on present bond and cautioned re bail jumping.

Court recommends incarceration at

a facility as close to the ~~Tidewater~~ Virginia area as possible.

a facility with a drug treatment program when and if defendant qualifies.

("RDAP")

Consent Order of Forfeiture, executed and filed in open court.

Additional Counts/Comments:

Gov't Witnesses:

(1) Brian Lewis

Gov't Exhibits

S1-1 - S1-5 [Photographs]